

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1006

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AN ACT to amend the Indiana Code concerning corrections.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 11-12-2-1, AS AMENDED BY SEA 420-2015, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) For the purpose of encouraging counties to develop a coordinated local corrections-criminal justice system and providing effective alternatives to imprisonment at the state level, the commissioner shall, out of funds appropriated for such purposes, make grants to counties for the establishment and operation of community corrections **programs and court supervised recidivism reduction** programs. Appropriations intended for this purpose may not be used by the department for any other purpose. Money appropriated to the department of correction for the purpose of making grants under this chapter and any financial aid payments suspended under section 6 of this chapter do not revert to the state general fund at the close of any fiscal year, but remain available to the department of correction for its use in making grants under this chapter.

(b) Before March 1 ~~2015~~, **of each year**, the department shall estimate the amount of any operational cost savings that will be realized in the state fiscal year ending June 30 ~~2015~~, from a reduction in the number of individuals who are in the custody or made a ward of the department of correction (as described in IC 11-8-1-5) that is attributable to the sentencing changes made in HEA 1006-2014 as

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enacted in the 2014 session of the general assembly. The department shall make the estimate under this subsection based on the best available information. If the department estimates that operational cost savings described in this subsection will be realized in the state fiscal year, ~~ending June 30, 2015~~; the following apply to the department:

(1) The department shall certify the estimated amount of operational cost savings that will be realized to the budget agency and to the auditor of state.

(2) The department may, after review by the budget committee and approval by the budget agency, make additional grants as provided in this chapter to counties for the establishment and operation of community corrections programs **and court supervised recidivism reduction programs** from funds appropriated to the department for the department's operating expenses for the state fiscal year.

~~(3) The department may, after review by the budget committee and approval by the budget agency, transfer funds appropriated to the department for the department's operating expenses for the state fiscal year to the judicial conference of Indiana to be used by the judicial conference of Indiana to provide additional financial aid for the support of court probation services under the program established under IC 11-13-2.~~

~~(4)~~ **(3)** The maximum aggregate amount of additional grants and transfers that may be made by the department under ~~subdivisions (2) and (3)~~ **subdivision (2)** for the state fiscal year may not exceed the lesser of:

(A) the amount of operational cost savings certified under subdivision (1); or

(B) eleven million dollars (\$11,000,000).

Notwithstanding P.L.205-2013 (HEA 1001-2013), the amount of funds necessary to make any additional grants authorized and approved under this subsection and for any transfers authorized and approved under this subsection, and for providing the additional financial aid to courts from transfers authorized and approved under this subsection, is appropriated for those purposes for the state fiscal year, ~~ending June 30, 2015~~, and the amount of the department's appropriation for operating expenses for the state fiscal year ~~ending June 30 2015~~; is reduced by a corresponding amount. ~~This subsection expires June 30, 2015.~~

(c) The commissioner shall give priority in issuing community corrections **and court supervised recidivism reduction program** grants to programs that provide alternative sentencing projects for



persons with mental illness, addictive disorders, intellectual disabilities, and developmental disabilities. **Programs for addictive disorders may include:**

- (1) addiction counseling;
- (2) inpatient detoxification;
- (3) medication assisted treatment, including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.
- (d) Grants awarded under this chapter:
  - (1) must focus on funding evidence based programs, including programs that address cognitive behavior, that have as a primary goal the purpose of reforming offenders; and
  - (2) may be used for technology based programs, including an electronic monitoring program.

(e) Before the tenth day of each month, the department shall compile the following information with respect to the previous month:

- (1) The number of persons committed to the department.
- (2) The number of persons:
  - (A) confined in a department facility;
  - (B) participating in a community corrections program; and
  - (C) confined in a local jail under contract with or on behalf of the department.
- (3) For each facility operated by the department:
  - (A) the number of beds in each facility;
  - (B) the number of inmates housed in the facility;
  - (C) the highest felony classification of each inmate housed in the facility; and
  - (D) a list of all felonies for which persons housed in the facility have been sentenced.

(f) The department shall:

- (1) quarterly submit a report to the budget committee; and
- (2) monthly submit a report to the justice reinvestment advisory council (as established in IC 33-38-9.5-2);

of the information compiled by the department under subsection (e). The report to the budget committee must be submitted in a form approved by the budget committee, and the report to the advisory council must be in a form approved by the advisory council.

SECTION 2. IC 11-12-2-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3.5. (a) The



**community corrections advisory board shall appoint a director if** any of the community corrections program, ~~shall be appointed by the community corrections advisory board~~, subject to the approval of the county executive or, in a county having a consolidated city, by the city-county council. A director may be removed for cause by a majority vote of the community corrections advisory board, subject to the approval of the county executive or, in a county having a consolidated city, of the city-county council.

(b) The community corrections advisory board may establish personnel policies, procedures, and salary classification schedules for its employees. Employees of a community corrections program are county employees. The policies, procedures, and schedules established under this subsection may not be inconsistent with those established for other county employees.

SECTION 3. IC 11-12-2-4, AS AMENDED BY P.L.24-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) A county or group of counties, **or a court or a group of courts**, seeking financial aid under this chapter must apply to the commissioner in a manner and form prescribed by the commissioner. **If the application is for a community corrections program**, the application must include a community corrections plan that has been approved by the community corrections board and the county executive or, in a county having a consolidated city, by the city-county council. **If the application is for a court supervised recidivism reduction program, the application must include information required by the department. If:**

(1) the application is from a county (not including a court);  
and

(2) the county operates a community corrections program;  
**the application must be approved by the community corrections advisory board. The commissioner shall give priority consideration to applicants that demonstrate collaboration between the local community corrections advisory board and court supervised recidivism reduction programs.** No county may receive financial aid until its application is approved by the commissioner.

(b) A community corrections plan must comply with rules adopted under section 5 of this chapter and must include:

- (1) a description of each program for which financial aid is sought;
- (2) the purpose, objective, administrative structure, staffing, and duration of the program;
- (3) a method to evaluate each component of the program to



determine the overall use of department approved best practices for the program;

(4) the program's total operating budget, including all other sources of anticipated income;

(5) the amount of community involvement and client participation in the program;

(6) the location and description of facilities that will be used in the program;

(7) the manner in which counties that jointly apply for financial aid under this chapter will operate a coordinated community corrections program; and

(8) a plan of collaboration between the probation department and the community corrections program for the provision of community supervision for adult offenders. The community supervision collaboration plan must be submitted to the department and the Indiana judicial center by ~~July 1, 2017~~, **January 1, 2016**, and must include:

(A) a description of the evidence based services provided to felony offenders by the community corrections program and the probation department;

(B) the manner in which the community corrections program and the probation department intend to reduce the duplication of services to offenders under community supervision;

(C) the manner in which the community corrections program and the probation department intend to coordinate operations and collaborate on the supervision of adult felony offenders;

(D) the eligibility criteria established for community based services provided to adult felony offenders;

(E) the criteria for using the community corrections program as an intermediate sanction for an offender's violation of probation conditions;

(F) a description of how financial aid from the department, program fees, and probation user fees will be used to provide services to adult felony offenders; and

(G) documentary evidence of compliance with department rules for community corrections programs and judicial conference of Indiana standards for probation departments.

(c) A community corrections plan must be annually updated, approved by the county executive or, in a city having a consolidated city, by the city-county council, and submitted to the commissioner.

(d) No amendment to or substantial modification of an approved community corrections plan may be placed in effect until the



department and county executive, or in a county having a consolidated city, the city-county council, have approved the amendment or modification.

(e) A copy of the final plan as approved by the department shall be made available to the board in a timely manner.

(f) The commissioner may, subject to availability of funds, give priority in issuing additional financial aid to counties with a community supervision collaboration plan approved by the department and the Indiana judicial center. The additional financial aid may be used for any evidence based service or program in the approved plan.

**(g) Purposes for which the commissioner may award financial aid under this chapter include:**

- (1) assisting a county in defraying the expenses of incarceration;**
- (2) funding mental health, addiction, and cognitive behavior treatment programs for incarcerated persons;**
- (3) funding mental health, addiction, and cognitive behavior treatment programs for persons who are on probation, are supervised by a community corrections program, or are participating in a pretrial diversion program offered by a prosecuting attorney;**
- (4) funding work release and other community corrections programs; and**
- (5) reimbursing a county for probation officer and community correction officer salaries.**

SECTION 4. IC 11-12-2-5, AS AMENDED BY P.L.105-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) The department shall do the following:

- (1) Provide consultation and technical assistance to counties to aid in the development of community corrections plans.
- (2) Provide training for community corrections personnel and board members to the extent funds are available.
- (3) Adopt under IC 4-22-2 rules governing application by counties **and courts** for financial aid under this chapter, including the content of community corrections plans.
- (4) Adopt under IC 4-22-2 rules governing the disbursement of monies to a county and the county's certification of expenditures.
- (5) Adopt under IC 4-22-2 minimum standards for the establishment, operation, and evaluation of programs receiving financial aid under this chapter. (These standards must be sufficiently flexible to foster the development of new and improved correctional practices.)



(6) Examine and either approve or disapprove applications for financial aid. The department's approval or disapproval must be based on this chapter and the rules adopted under this chapter.

(7) Keep the budget agency informed of the amount of appropriation needed to adequately fund programs under this chapter.

(8) Adopt under IC 4-22-2 a formula or other method of determining a participating county's share of funds appropriated for purposes of this chapter. This formula or method must be approved by the budget agency before the formula is adopted and must be designed to accurately reflect a county's correctional needs and ability to pay.

(9) Keep counties informed of money appropriated for the purposes of this chapter.

(10) Provide an approved training curriculum for community corrections field officers.

(11) Require community corrections programs to submit in proposed budget requests an evaluation of the use of department approved best practices for each community corrections program component.

**(12) Submit applications from counties and courts to the justice reinvestment advisory council established under IC 33-38-9.5 for review and recommendation unless otherwise authorized by the advisory council.**

(b) The commissioner may do the following:

(1) Visit and inspect any program receiving financial aid under this chapter.

(2) Require a participating county or program to submit information or statistics pertinent to the review of applications and programs.

(3) Expend up to three percent (3%) of the money appropriated to the department for community correction grants to provide technical assistance, consultation, and training to counties and to monitor and evaluate program delivery.

(c) Notwithstanding any law prohibiting advance payments, the department of correction may advance grant money to a county or group of counties in order to assist a community corrections program. However, not more than twenty-five percent (25%) of the amount awarded to a county or group of counties may be paid in advance.

(d) The commissioner shall disburse no more funds to any county **or court** under this chapter than are required to fund the community corrections plan **or court supervised recidivism reduction program**.



SECTION 5. IC 11-12-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) Counties may not use funds received under this chapter to construct or renovate county jails **or community correction facilities.**

(b) Counties acting jointly may use funds received under this chapter to construct a county operated residential work release facility; if the facility is not

(1) physically connected to a jail; or

(2) used to house offenders who are required to serve their sentence in a county jail;

(c) The department may provide funds under this chapter for the construction of a facility under subsection (b) in an amount that does not exceed fifty percent (50%) of the cost of construction of the facility. The funds provided under this subsection may not be used for any purpose other than the construction of the facility.

(d) The counties acting under subsection (b) shall provide the funds required for:

(1) the construction of the facility in addition to the funds provided by the department under subsection (c);

(2) the operation of the facility; and

(3) the administration of the community corrections program.

(e) A residential work release facility constructed under subsection (b) may not be used for any purpose other than the operation of a community corrections program during the ten (10) year period following the completion of construction.

SECTION 6. IC 11-12-3.8-4 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 4. (a) As used in this section, "account" refers to the mental health and addiction forensic treatment services account established in subsection (b).

(b) The mental health and addiction forensic treatment services account is established for the purpose of providing grants or vouchers for the provision of mental health and addiction forensic treatment services. The account shall be administered by the division of mental health and addiction. Money in the account shall be used to fund grants and vouchers under this chapter.

(c) The account consists of:

(1) appropriations made by the general assembly;

(2) grants; and

(3) gifts and bequests.

(d) The expenses of administering the account shall be paid from money in the account.

(e) The treasurer of state shall invest the money in the account not





currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(f) Money in the account at the end of a state fiscal year does not revert to the state general fund.

SECTION 7. IC 11-12-6 IS REPEALED [EFFECTIVE JULY 1, 2015]. (County Corrections Fund).

SECTION 8. IC 11-13-1-8, AS AMENDED BY SEA 420-2015, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana established by IC 33-38-9-3.

(b) The board shall adopt rules consistent with this chapter, prescribing minimum standards concerning:

- (1) educational and occupational qualifications for employment as a probation officer;
- (2) compensation of probation officers;
- (3) protection of probation records and disclosure of information contained in those records;
- (4) presentence investigation reports;
- (5) a schedule of progressive probation incentives and violation sanctions, including judicial review procedures; and
- (6) qualifications for probation officers to administer probation violation sanctions under IC 35-38-2-3(e).

(c) The conference shall prepare a written examination to be used in establishing lists of persons eligible for appointment as probation officers. The conference shall prescribe the qualifications for entrance to the examination and establish a minimum passing score and rules for the administration of the examination after obtaining recommendations on these matters from the probation standards and practices advisory committee. The examination must be offered at least once every other month.

(d) The conference shall, by its rules, establish an effective date for the minimum standards and written examination for probation officers.

(e) The conference shall provide probation departments with training and technical assistance for:

- (1) the implementation and management of probation case classification; and
- (2) the development and use of workload information.

The staff of the Indiana judicial center may include a probation case management coordinator and probation case management assistant.

(f) The conference shall, in cooperation with the department of child



services and the department of education, provide probation departments with training and technical assistance relating to special education services and programs that may be available for delinquent children or children in need of services. The subjects addressed by the training and technical assistance must include the following:

- (1) Eligibility standards.
- (2) Testing requirements and procedures.
- (3) Procedures and requirements for placement in programs provided by school corporations or special education cooperatives under IC 20-35-5.
- (4) Procedures and requirements for placement in residential special education institutions or facilities under IC 20-35-6-2 and 511 IAC 7-27-12.
- (5) Development and implementation of individual education programs for eligible children in:
  - (A) accordance with applicable requirements of state and federal laws and rules; and
  - (B) coordination with:
    - (i) individual case plans; and
    - (ii) informal adjustment programs or dispositional decrees entered by courts having juvenile jurisdiction under IC 31-34 and IC 31-37.
- (6) Sources of federal, state, and local funding that is or may be available to support special education programs for children for whom proceedings have been initiated under IC 31-34 and IC 31-37.

Training for probation departments may be provided jointly with training provided to child welfare caseworkers relating to the same subject matter.

(g) The conference shall, in cooperation with the division of mental health and addiction (IC 12-21) and the division of disability and rehabilitative services (IC 12-9-1), provide probation departments with training and technical assistance concerning mental illness, addictive disorders, intellectual disabilities, and developmental disabilities, **including evidence based treatment programs for mental illness and addictive disorders and cognitive behavior treatment.**

(h) The conference shall make recommendations to courts and probation departments concerning:

- (1) selection, training, distribution, and removal of probation officers;
- (2) methods and procedure for the administration of probation, including investigation, supervision, workloads, record keeping,



and reporting; and

(3) use of citizen volunteers and public and private agencies.

(i) The conference may delegate any of the functions described in this section to the advisory committee or the Indiana judicial center.

SECTION 9. IC 11-13-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. The judicial conference of Indiana may arrange conferences or workshops for probation officers and judges administering probation in order to enhance knowledge about and improve the delivery of probation services. **The judicial conference of Indiana may arrange joint conferences or workshops for probation officers, judges administering probation, community corrections officers and employees, prosecuting attorneys, and defense attorneys in order to enhance knowledge about, coordinate, and improve the delivery of probation and community corrections services.** The expenses of probation officers and judges incurred in attending these conferences or workshops shall be paid in the same manner as other expenses are paid in the courts in which they serve. **The expenses of community corrections officers and employees may be paid by the county in the same manner as other county employee expenses are paid.**

SECTION 10. IC 12-23-19 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

**Chapter 19. Mental Health and Addiction Forensic Treatment Services Grants**

**Sec. 1. As used in this chapter, "mental health and addiction forensic treatment services" means evidence based treatment and recovery wraparound support services provided to individuals who have entered the criminal justice system as a felon or with a prior felony conviction or who have been placed or are eligible to be placed in a community corrections program as an alternative to commitment to the department of correction. The term includes:**

- (1) mental health and substance abuse treatment, including:**
  - (A) addiction counseling;**
  - (B) inpatient detoxification;**
  - (C) case management;**
  - (D) daily living skills; and**
  - (E) medication assisted treatment, including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence;**
- (2) vocational services;**



- (3) housing assistance;
- (4) community support services;
- (5) care coordination;
- (6) transportation assistance; and
- (7) mental health and substance abuse assessments.

**Sec. 2. (a) An individual is eligible for mental health and addiction forensic treatment services if:**

- (1) the individual:**
  - (A) is a member of a household with an annual income that does not exceed two hundred percent (200%) of the federal income poverty level;**
  - (B) is a resident of Indiana;**
  - (C) is at least eighteen (18) years of age; and**
  - (D) has entered the criminal justice system as a felon or with a prior felony conviction; and**
- (2) subject to subsection (b), reimbursement for the service is not available to the individual through any of the following:**
  - (A) A policy of accident and sickness insurance (IC 27-8-5).**
  - (B) A health maintenance organization contract (IC 27-13).**
  - (C) The Medicaid program (IC 12-15), excluding the Medicaid rehabilitation program and the Behavioral and Primary Health Coordination Program under Section 1915(i) of the Social Security Act.**
  - (D) The federal Medicare program or any other federal assistance program.**

**(b) If an individual is not entitled to reimbursement from the sources described in subsection (a)(2) of the full amount of the cost of the mental health and addiction forensic treatment services, grants and vouchers under this chapter may be used to provide those services to the extent that the costs of those services exceed the reimbursement the individual is entitled to receive from the sources described in subsection (a)(2), excluding any copayment or deductible that the individual is required to pay.**

**(c) The division shall determine the extent to which an individual who is provided mental health and addiction forensic treatment services under this chapter is entitled to receive reimbursement from the sources described in subsection (a)(2).**

**Sec. 3. Mental health and addiction forensic treatment services may be administered or coordinated only by a provider certified or licensed by the division of mental health and addiction.**

**Sec. 4. (a) As used in this section, "account" refers to the mental health and addiction forensic treatment services account**



established by subsection (b).

(b) The mental health and addiction forensic treatment services account is established for the purpose of providing grants, vouchers, and for leveraging federal funds for the provision of mental health and addiction forensic treatment services. The account shall be administered by the division. The division may use money in the account only to fund grants and vouchers under this chapter that are provided to the following:

- (1) Community corrections programs.
- (2) Court administered programs.
- (3) Probation and diversion programs.
- (4) Community mental health centers.
- (5) Certified or licensed mental health or addiction providers.

(c) The account consists of:

- (1) appropriations made by the general assembly;
- (2) grants; and
- (3) gifts and bequests.

(d) The expenses of administering the account shall be paid from money in the account.

(e) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(f) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(g) Money deposited in the account may be used as the required state match under the Medicaid rehabilitation program and the Behavioral and Primary Health Coordination program under Section 1915(i) of the Social Security Act.

Sec. 5. In the case of an individual who is provided mental health and addiction forensic treatment services under this chapter, the division is subrogated to the rights of the individual under any policy, contract, or program described in section 2(a)(2) of this chapter with respect to reimbursement under the policy, contract, or program for mental health and addiction forensic treatment services, excluding services provided through the Medicaid rehabilitation program and the Behavioral and Primary Health Coordination Program under Section 1915(i) of the Social Security Act.

Sec. 6. (a) The division shall provide or cause to be provided education and training on the use of:

- (1) involuntary commitment; and



**(2) medication assisted treatment, including federal Food and Drug Administration approved long acting, nonaddictive medications for the treatment of opioid or alcohol dependence for individuals with an addictive disorder.**

**(b) The division shall provide or cause to be provided education and training required in subsection (a) to the following:**

- (1) Circuit and superior court judges.**
- (2) Prosecuting attorneys and deputy prosecuting attorneys.**
- (3) Public defenders.**
- (4) Programs and providers identified in section 4(b) of this chapter.**

**Sec. 7. The division shall survey individuals receiving mental health and addiction forensic treatment services under this chapter. The division shall survey and develop demographic research on such an individual one (1) year after the individual begins receiving the services. The survey must request information concerning:**

- (1) the employment status of the individual since the individual began receiving the services; and**
- (2) whether the individual has been arrested, convicted of a crime, alleged to have violated probation, or placed in a community corrections program as an alternative to commitment to the department of correction since the individual began receiving the services.**

**Sec. 8. During the year after an individual begins receiving mental health and addiction forensic treatment services under this chapter, the division shall work jointly with the department of workforce development to coordinate employment and training services for the individual.**

**SECTION 11. IC 33-23-16-22, AS ADDED BY P.L.108-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 22. (a) The costs of a problem solving court may, at the discretion of the fiscal body of the unit, be supplemented out of the city general fund or the county general fund and may be further supplemented by payment from the user fee fund upon appropriation made under IC 33-37-8.**

**(b) A problem solving court may apply for and receive the following:**

- (1) Gifts, bequests, and donations from private sources.**
- (2) Grants and contract money from governmental sources.**
- (3) Other forms of financial assistance approved by the court to supplement the problem solving court's budget.**



**(c) A court wishing to establish a problem solving court, including a veteran's court, may apply to the judicial center for financial assistance. The judicial center may provide financial aid to establish the court from funds appropriated to the judicial center for that purpose.**

SECTION 12. IC 33-38-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. The judicial conference shall do the following:

- (1) Promote an exchange of experience and suggestions regarding the operation of Indiana's judicial system.
- (2) Promote the continuing education of judges.
- (3) Seek to promote a better understanding of the judiciary.
- (4) Act as administrator for probationers participating in the interstate compact for the supervision of parolees and probationers under IC 11-13-4-3.
- (5) Act as compact administrator for probationers participating in the interstate compact on juveniles under IC 11-13-4-3.
- (6) Staff the justice reinvestment advisory council under IC 33-38-9.5.**

SECTION 13. IC 33-38-9.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

**Chapter 9.5. Justice Reinvestment Advisory Council**

**Sec. 1. The following definitions apply throughout this chapter:**

- (1) "Advisory council" means the justice reinvestment advisory council established by section 2 of this chapter.
- (2) "Board" means the board of directors of the judicial conference of Indiana established by IC 33-38-9-3.
- (3) "Indiana judicial center" means the Indiana judicial center established under IC 33-38-9-4(b).

**Sec. 2. (a) The justice reinvestment advisory council is established. The advisory council consists of the following members:**

- (1) The executive director of the Indiana public defender council or the executive director's designee.
- (2) The executive director of the Indiana prosecuting attorneys council or the executive director's designee.
- (3) The director of the division of mental health and addiction or the director's designee.
- (4) The president of the Indiana Sheriffs' Association or the president's designee.
- (5) The commissioner of the Indiana department of correction



or the commissioner's designee.

(6) The executive director of the Indiana judicial center or the executive director's designee.

(7) The executive director of the Indiana criminal justice institute or the executive director's designee.

(8) The president of the Indiana Association of Community Corrections Act Counties or the president's designee.

(9) The president of the Probation Officers Professional Association of Indiana or the president's designee.

(b) The executive director of the Indiana judicial center shall serve as chairperson of the advisory council.

(c) The purpose of the advisory council is to conduct a state level review and evaluation of:

(1) local corrections programs, including community corrections, county jails, and probation services; and

(2) the processes used by the department of correction and the division of mental health and addiction in awarding grants.

(d) The advisory council may make a recommendation to the department of correction, community corrections advisory boards, and the division of mental health and addiction concerning the award of grants.

(e) The Indiana judicial center shall staff the advisory council.

(f) The expenses of the advisory council shall be paid by the Indiana judicial center from funds appropriated to the Indiana judicial center for the administrative costs of the justice reinvestment advisory council.

(g) A member of the advisory council is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(h) The affirmative votes of a majority of the voting members appointed to the advisory council are required for the advisory council to take action on any measure.

(i) The advisory council shall meet as necessary to:

(1) work with the department of correction and the division of mental health and addiction to establish the grant criteria and grant reporting requirements described in subsection (k);

(2) review grant applications;





- (3) make recommendations and provide feedback to the department of correction and the division of mental health and addiction concerning grants to be awarded;
- (4) review grants awarded by the department of correction and the division of mental health and addiction; and
- (5) suggest areas and programs in which the award of future grants might be beneficial.

(j) The advisory council shall issue an annual report, before October 1 of each year, to the:

- (1) legislative council;
- (2) chief justice; and
- (3) governor.

The report to the legislative council must be in an electronic format under IC 5-14-6.

(k) The report described in subsection (j) must include the following:

- (1) The recidivism rate of persons participating in the program or treatment plan, including the recidivism rate (when available):
  - (A) while participating in the program or treatment plan;
  - (B) within six (6) months of completing the program or treatment plan;
  - (C) within one (1) year of completing the program or treatment plan;
  - (D) within two (2) years of completing the program or treatment plan; and
  - (E) within three (3) years of completing the program or treatment plan.
- (2) The overall success and failure rate of a program and treatment plan and the measures used to determine the overall success and failure rate.
- (3) The number of persons who complete or fail to complete a program or treatment plan, and, for persons who do not complete the plan, the reason that the person did not complete the plan, if available.
- (4) The number of persons participating in the program or treatment plan and the duration of their participation.
- (5) The number and percentage of persons able to obtain employment after participating in the plan, the type of employment obtained, the length of time required to obtain employment, and, when available, the number of persons still employed after six (6) months and after one (1) year.



**(6) Other information relevant to the operation of the program or treatment plan.**

**Sec. 3. The goal of the justice reinvestment advisory council is to develop incarceration alternatives and recidivism reduction programs at the county and community level by promoting the development of:**

- (1) probation services;**
- (2) problem solving courts;**
- (3) mental health treatment;**
- (4) substance abuse treatment;**
- (5) programs providing for court supervision, probation, or pretrial diversion;**
- (6) community corrections;**
- (7) evidence based recidivism reduction programs for currently incarcerated persons; and**
- (8) other alternatives to incarceration.**

SECTION 14. IC 35-38-1-9, AS AMENDED BY P.L.114-2012, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) As used in this chapter, "recommendation" has the meaning set forth in IC 35-31.5-2-272, and "victim" has the meaning set forth in IC 35-31.5-2-348.

(b) The presentence investigation consists of the gathering of information with respect to:

- (1) the circumstances attending the commission of the offense;
- (2) the convicted person's history of delinquency or criminality, social history, employment history, family situation, economic status, education, and personal habits;
- (3) the impact of the crime upon the victim; and
- (4) whether the convicted person is licensed or certified in a profession regulated by IC 25.

(c) The presentence investigation may include any matter that the probation officer conducting the investigation believes is relevant to the question of sentence, and must include:

- (1) any matters the court directs to be included;
- (2) any written statements submitted to the prosecuting attorney by a victim under IC 35-35-3;
- (3) any written statements submitted to the probation officer by a victim; and
- (4) preparation of the victim impact statement required under section 8.5 of this chapter.

(d) If there are no written statements submitted to the probation officer, the probation officer shall certify to the court:



(1) that the probation officer has attempted to contact the victim;  
and

(2) that if the probation officer has contacted the victim, the probation officer has offered to accept the written statements of the victim or to reduce the victim's oral statements to writing, concerning the sentence, including the acceptance of any recommendation.

(e) A presentence investigation report prepared by a probation officer must include the information and comply with any other requirements established in the rules adopted under IC 11-13-1-8.

**(f) The probation officer shall consult with a community corrections program officer or employee (if there is a community corrections program in the county) regarding services and programs available to the defendant while preparing the presentence investigation report.**

SECTION 15. IC 35-38-2.6-3, AS AMENDED BY P.L.173-2006, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The court may, at the time of sentencing, suspend the sentence and order a person to be placed in a community corrections program as an alternative to commitment to the department of correction. The court may impose reasonable terms on the placement **or require the director of the community corrections program to impose reasonable terms on the placement.** A court shall require a person:

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a term of placement.

(b) Placement in a community corrections program under this chapter is subject to the availability of residential beds or home detention units in a community corrections program.

(c) A person placed under this chapter is responsible for the person's own medical care while in the placement program.

(d) Placement under this chapter is subject to the community corrections program receiving a written presentence report or memorandum from a county probation agency.

SECTION 16. IC 35-38-2.6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. If a person who is placed under this chapter violates the terms of the placement, the ~~court~~ **community corrections director** may ~~after a hearing~~ do any of the



following:

- (1) Change the terms of the placement.
- (2) Continue the placement.
- (3) Reassign a person assigned to a specific community corrections program to a different community corrections program.**
- ~~(3)~~ **(4) Request that the court** revoke the placement and commit the person to the **county jail or** department of correction for the remainder of the person's sentence.

**The community corrections director shall notify the court if the director changes the terms of the placement, continues the placement, or reassigns the person to a different program.**

SECTION 17. IC 35-38-3-3, AS AMENDED BY P.L.168-2014, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) Except as provided by subsection (b), a person convicted of a misdemeanor may not be committed to the department of correction.

(b) Upon a request from the sheriff, the commissioner may agree to accept custody of a misdemeanorant:

- (1) if placement in the county jail:
  - (A) places the inmate in danger of serious bodily injury or death; or
  - (B) represents a substantial threat to the safety of others;
- (2) for other good cause shown; or
- (3) if a person has more than five hundred forty-seven (547) days remaining before the person's earliest release date as a result of:
  - (A) consecutive misdemeanor sentences; or**
  - (B) a sentencing enhancement applied to a misdemeanor sentence.**

(c) After June 30, 2014, and before ~~July 1, 2015~~, **January 1, 2016**, a court may not commit a person convicted of a Level 6 felony to the department of correction if the person's earliest possible release date is less than ninety-one (91) days from the date of sentencing, unless the commitment is due to the person violating a condition of probation, parole, or community corrections by committing a new criminal offense.

(d) After ~~June 30, 2015~~, **December 31, 2015**, a court may not commit a person convicted of a Level 6 felony to the department of correction, ~~if the person's earliest possible release date is less than three hundred sixty-six (366) days from the date of sentencing~~, unless:

- (1) the commitment is due to the person violating a condition of probation, parole, or community corrections by committing a new**



criminal offense; **or**

**(2) the person is convicted of:**

**(A) at least two (2) Level 6 felonies that are ordered to be served consecutively; or**

**(B) a Level 6 felony that is enhanced by an additional fixed term under IC 35-50-2-8 through IC 35-50-2-16;**

**and the person's earliest possible release date is more than three hundred sixty-five (365) days after the date of sentencing.**

**A person who may not be committed to the department of correction may be placed on probation, committed to the county jail, or placed in community corrections for assignment to an appropriate community corrections program.**

(e) After June 30, 2014, **and before January 1, 2016**, a sheriff is entitled to a per diem and medical expense reimbursement as described in P.L.205-2013, SECTION 4 for the cost of incarcerating a person described in subsections (c) and (d) in a county jail. The sheriff is entitled to a per diem and medical expense reimbursement only for the time that the person described in subsections (c) and (d) is incarcerated in the county jail. The reimbursement:

(1) shall be reviewed by the budget committee; and

(2) is subject to approval by the budget agency.

**(f) Subject to appropriation from the general assembly, a sheriff is entitled to a per diem and medical expense reimbursement from the department of correction for the cost of incarcerating a person described in subsections (c) and (d) in a county jail. The sheriff is entitled to a per diem and medical expense reimbursement only for the time that the person described in subsections (c) and (d) is incarcerated in the county jail.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**HEA 1006 — CC 1**

